

ESTTA Tracking number: **ESTTA465435**

Filing date: **04/04/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	DC COMICS
Granted to Date of previous extension	04/04/2012
Address	1700 Broadway New York, NY 10019 UNITED STATES
Attorney information	Patrick T. Perkins Perkins Law Office, P.C. 1711 Route 9D Cold Spring, NY 10516 UNITED STATES pperkins@ptplaw.com

Applicant Information

Application No	85369598	Publication date	12/06/2011
Opposition Filing Date	04/04/2012	Opposition Period Ends	04/04/2012
Applicant	Brent A. Hahn 6125 Belle Pond Way S. Salem, OR 97306 UNITED STATES		

Goods/Services Affected by Opposition


Class 028. All goods and services in the class are opposed, namely: Archery equipment, namely, arrow points and broad heads
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4027931	Application Date	09/07/2010
Registration Date	09/20/2011	Foreign Priority Date	NONE
Word Mark	THE SANDMAN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1989/01/00 First Use In Commerce: 1989/01/00 Printed matter and paper goods, namely, comic books and graphic novels

Attachments	85124460#TMSN.jpeg (1 page)(bytes) 00053523.pdf (5 pages)(24162 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/patricktperkins/
Name	Patrick T. Perkins
Date	04/04/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 85369598

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DC COMICS,	:	
	:	
Opposer,	:	Opposition No.
	:	
-against-	:	
	:	
BRENT A. HAHN,	:	
	:	
Applicant.	:	
	X	

NOTICE OF OPPOSITION

DC Comics (“DC” or “Opposer”), a New York partnership located at 1700 Broadway, New York, NY 10019, believes that it is or will be damaged by the issuance of a registration of the THE SANDMAN trademark as applied for in Application S.N. 85369598 filed on July 12, 2011 by Brent A. Hahn (“Applicant”) for “archery equipment, namely, arrow points and broad heads” in International Class 28. As grounds for the opposition, Opposer, by its attorney, Perkins Law Office, P.C., alleges as follows:

FACTS

1. DC is a New York partnership with its principal place of business at 1700 Broadway, New York, NY 10019.
2. DC Comics is the publisher of comic books and magazines featuring comic characters and stories. DC Comics is among the most well known and successful publishers of comic magazines in the world. It has created and published highly successful and well-known characters, including but not limited to, The Sandman.
3. DC first introduce its SANDMAN character in 1939. He has been re-introduced and reimagined over the years, including in 1974 and again in 1989. Over the years DC Comics has focused significant attention and effort to develop the character, his associates, his world,

and other indicia associated with him. Opposer's efforts have led to an array of literary works. Due to Opposer's efforts and resources expended to publish and expand the renown of THE SANDMAN, the character has become well known, as has the trademark by which he is known: THE SANDMAN.

4. DC owns Reg. No. 4027931 for THE SANDMAN for "printed matter and paper goods, namely, comic books and graphic novels" in International Class 16. The registration, which is based upon use dating back to 1989, is in full force and effect.

5. The THE SANDMAN character and mark have also been licensed for use in connection with goods in International Class 28.

6. The THE SANDMAN mark is arbitrary and famous and thus is strong and entitled to the broadest scope of protection.

7. On July 12, 2011, Applicant filed application S.N. 85369598 to register the mark THE SANDMAN for "archery equipment, namely, arrow points and broad heads" in International Class 28.

8. Applicant's mark is identical to Opposer's mark. As a result, the parties' marks make identical commercial impressions. Moreover, the goods with which Applicant seeks to use his mark are related to the goods with which DC Comics has used its THE SANDMAN mark. The combination of the identical word marks and the relationship of the parties' respective goods and services, create a strong association between the parties' marks.

9. Upon information and belief, Applicant applied to register his mark with full knowledge of Opposer's rights in and to the THE SANDMAN mark and with an intent to trade off of the goodwill of Opposer's mark.

10. The date of Applicant's application – July 12, 2011 – is long after Opposer's first use of the THE SANDMAN mark and well after it became well-known.

11. Upon information and belief, Applicant willfully copied the THE SANDMAN mark in choosing his mark in a deliberate attempt to associate his goods with Opposer and its THE SANDMAN character and the overwhelming goodwill therein.

12. Applicant's intended use of his mark falsely suggests an association with or approval by Opposer of Applicant's goods, and will inevitably create confusion in the marketplace, as consumers will assume that Applicant's goods are authorized or endorsed by Opposer. Such false suggestion will cause irreparable harm to Opposer.

FIRST GROUND FOR RELIEF

13. Opposer incorporates by reference paragraphs 1 through 12 as if fully set forth herein.

14. The THE SANDMAN mark has been used continually by Opposer since a date prior to any date on which Applicant may rely.

15. Applicant's mark is identical in appearance and in commercial impression to Opposer's mark.

16. The goods of Applicant to be offered under his mark are intended and are likely to be perceived as related to Opposer's goods under the THE SANDMAN mark and to the THE SANDMAN character himself.

17. The use by Applicant of his mark for the goods listed in the application is likely to create the erroneous impression that Applicant's goods originate with, are sponsored or promoted by, come from, or are otherwise associated with Opposer or Opposer's goods provided under the THE SANDMAN marks or that Applicant's goods are endorsed, sponsored, or in some way connected with Opposer. Any use of the Applicant's mark by Applicant is, therefore, likely to cause confusion, cause mistake or to deceive the public into the belief that the goods offered under Applicant's mark come from or are otherwise authorized or sponsored by Opposer in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Application S.N. 85369598 be denied.

Dated: Cold Spring, NY
April 4, 2012

Respectfully submitted,

PERKINS LAW OFFICE, P.C.

By: /Patrick T. Perkins/
Patrick T. Perkins

1711 Route 9D
Cold Spring, NY 10516
(845) 265-2820

*Attorney for Opposer
DC Comics*

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Applicant by mailing said copy on April 4, 2012, via First Class Mail, postage prepaid to Applicant's counsel at the following address:

Caleb A. Williams, Esq.
Saafeld Griggs
250 Church Street SE
PO Box 470
Salem, Oregon 97308

/Patrick Perkins/
Patrick T. Perkins